

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE AUTUMN GROVE SUBDIVISION
VOLO, IL**

This Declaration is made and entered into by William Ryan Homes, Inc., an Illinois Corporation ("Declarant").

R E C I T A L S

The Development Area is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phased development called Autumn Grove Subdivision (the "Development"). The Development shall include dwelling units and certain common areas.

Initially, the Declarant shall subject the real estate which is legally described in Exhibit A hereto to the provisions of this Declaration as the Premises. From time to time the Declarant may subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as more fully described in Article Twelve. Nothing in this Declaration shall be construed to require the Declarant to subject additional portions of the Development Area to the provisions of this Declaration. Those portions of the Development Area which are not made subject to the provisions of this Declaration as Premises may be used for any purposes not prohibited by law.

Certain portions of the Premises shall be designated as Commons Areas or Detention Areas. In order to provide for the orderly and proper maintenance of such property, the Declarant has formed (or will form) the Association under the Illinois General Not-For-Profit Corporation Act, and the Association shall adopt budgets and fix assessments to pay the expenses incurred in connection with such duties. Each Owner of a Dwelling Unit shall be a member of the Association and shall be responsible for paying assessments with respect to the Dwelling Unit owned by such Owner.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, as more fully described in Article Nine, the right to come upon the Premises in connection with Declarant's efforts to sell Dwelling Units and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

ARTICLE ONE
Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSOCIATION: The Autumn Grove Homeowners' Association, an Illinois not-for-profit corporation, its successors and assigns.

1.02 ASSOCIATION MAINTAINED PUBLIC AREA: Those portions of dedicated rights of way or portions of the Development which are dedicated to or owned by the Municipality which are designated as Association Maintained Public Area on the Plat of Subdivision. Association Maintained Public Area shall generally include retention and detention areas, landscaped areas, bicycle or walking paths and open space within the Development which is dedicated and/or conveyed to the Municipality. Association Maintained Public Area specifically excludes roadways, curbs and sidewalks and any improvements installed by the Municipality which are not part of the Declarant's Development Plan.

1.03 BACKUP SPECIAL SERVICE AREA: A special service area which may be established by the Municipality to serve as a what is commonly referred to as a "Backup Special Service Area", as more fully provided in Section 7.10.

1.04 BOARD: The board of directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article Five.

1.05 BY-LAWS: The By-Laws of the Association.

1.06 CHARGES: The Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.07 COMMUNITY AREA: Those portions of the Premises which are designated on the Plat of Subdivision as Community Area and all improvements thereto and landscaping thereon. The Community Area will generally consist of and include parks, greenspace, walkways, gazebos, pathways, detention or retention basins, entry monuments and related landscaping and other facilities and improvements which serve the Development and may include a playground, and shall not include any lot.

1.08 COMMUNITY ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.09 COMMUNITY EXPENSES: The expenses of the administration (including management and professional services) of the Association; the expenses of the maintenance, repair and replacement of all landscaping and improvements on the Community Area and the Association maintained public area as more fully described in Section 3.02. Any expense which

is designated as a Community Expense in this Declaration; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners.

1.10 COUNTY: Lake County, Illinois, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.11 DECLARANT: William Ryan Homes, Inc, an Illinois Corporation, its successors and assigns.

1.12 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.13 DETACHED HOME: A detached Home on a subdivided lot.

1.14 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto.

1.15 DWELLING UNIT: A portion of the Premises which is improved with a single family residential unit for which a temporary, conditional or final certificate of occupancy has been issued by the Municipality.

1.16 HOME: That portion of a Lot which is improved with a residential dwelling unit and any decks and steps which serve the unit.

1.17 LOT: Each subdivided lot as designated on the Plat of Subdivision hereto, together with all improvements thereon and thereto.

1.18 MORTGAGEE: The holder of a recorded bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

1.19 MUNICIPALITY: Volo, Illinois, or its successors, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.20 NON-OWNER: A person other than an Owner or a Resident.

1.21 OWNER: A Record owner, whether one or more persons, of fee simple title to a Dwelling Unit, including a contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Dwelling Unit owned by the Declarant.

1.22 LOT: A Dwelling Unit.

1.23 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.24 PREMISES: Those portions of the Development Area which are from time to time subject to this Declaration and which are legally described in Exhibit A hereto and on the Plat of Subdivision, with all improvements thereon and rights appurtenant thereto. Declarant shall have the right, but not the obligation, to make additional portions of the Development Area subject to this Declaration as part of the Premises as more fully provided in Article Twelve.

1.25 RECORD: To record in the office of the Recorder of Deeds for the County.

1.26 RESIDENT: An individual who legally resides in a Home.

1.27 TURNOVER DATE: The date on which the rights of the Declarant to designate the members of the Board are terminated under Section 9.05.

1.28 UNADDED AREA: Those portions of the Development Area which from time to time have not been made subject to this Declaration as part of the Premises.

1.29 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

ARTICLE TWO
Scope of Declaration/Certain Easements

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant shall have the right from time to time to subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as provided in Article Twelve hereof.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in any part of the Premises, regardless of whether reference is made in any deed of conveyance, lease, mortgage, trust deed, other evidence of obligation, or other instrument to the provisions of this Declaration.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended as provided in Section 10.02.

2.04 LOT CONVEYANCE: Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Board and the Municipality.

2.05 ACCESS EASEMENT: The Municipality or any other governmental authority which has jurisdiction over the Premises shall have a non-exclusive easement of access over roads and driveways located on the Premises for police, fire, ambulance, waste removal, snow removal, or for the purpose of furnishing municipal or emergency services to the Premises. The Association, its employees and agents, shall have the right of ingress to, egress from, Community Area, and the right to store equipment on the Community Area, for the purpose of furnishing any maintenance, repairs or replacements of the Community Area, as required or permitted hereunder.

2.06 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Community Area. Such rights and easements shall run with the land, be appurtenant to and pass with title to each Dwelling Unit, and shall be subject to and governed by the laws, ordinances and statutes of jurisdiction, the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association.

2.07 DELEGATION OF USE: Subject to the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Community Area. An Owner shall delegate such rights to tenants and contract purchasers of the Owner's Dwelling Unit who are Residents.

2.08 UTILITY EASEMENTS: The Municipality and all public and private utilities (including cable companies) serving the Premises are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Community Area for the purpose of providing utility services to the Premises or any other portion of the Development Area.

2.09 EASEMENTS, LEASES, LICENSES AND CONCESSIONS: The Association shall have the right and authority from time to time to lease or grant easements, licenses, or concessions with regard to any portions or all of the Community Area for such uses and purposes as the Board deems to be in the best interests of the Owners and which are not prohibited hereunder, including, without limitation, the right to grant easements for utilities or any other purpose which the Board deems to be in the best interests of the Owners and the right to grant public access to walking paths which may be located on the Community Area. Any proceeds from leases, easements, licenses or concessions with respect to the Community Area shall be used to pay the Community Expenses. Also, the Association shall have the right and power to dedicate any part or all of the roads or parking areas located on the Community Area to the Municipality, but only upon the approval of the Municipality. Each person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Dwelling Unit, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this

Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly recorded.

2.10 ASSOCIATION'S ACCESS: The Association shall have the right and power to come onto any portion of the Premises for the purpose of furnishing the services required to be furnished hereunder or enforcing its rights and powers hereunder.

2.11 NO DEDICATION TO PUBLIC USE: Except for easements granted or dedications made as permitted in Section 2.09, nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Community Area to or for any public use or purpose whatsoever.

2.12 EASEMENT FOR ENCROACHMENT: In the event that by reason of the construction, repair, reconstruction, settlement or shifting of an improvement to a Lot, any improvement which is intended to service and/or be part of the Lot shall encroach upon any part of any other Lot or Community Area, then there shall be deemed to be an easement in favor of and appurtenant to such encroaching improvement for the continuance, maintenance, repair and replacement thereof; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner (other than Declarant), if such encroachment occurred due to the intentional, willful, or negligent conduct of such Owner or his agent. Without limiting the foregoing, the Owner of each Lot shall have an easement appurtenant to his Lot for the continuance, maintenance, repair and replacement of the following improvements, if any, which encroach onto another Lot or the Community Area:

- (a) the eaves, gutters, downspouts, fascia, flashings, and like appendages which serve the Home on the Lot;
- (b) the chimney which serves the Home on the Lot;
- (c) the air conditioning equipment which serves the Home on the Lot; or
- (d) balconies, steps, porches, door entries and patios which serve the Home on the Lot.

The Person who is responsible for the maintenance of any encroaching improvement for which an easement for continuance, maintenance, repair and replacement thereof is granted under this Section shall continue to be responsible for the maintenance of such encroaching improvement and the Person who is responsible for the maintenance of the real estate upon which such improvement encroaches shall not have the duty to maintain, repair or replace any such encroaching improvement unless otherwise provided in this Declaration.

2.13 OWNERSHIP OF COMMUNITY AREA: The Community Area shall be conveyed to the Association free of mortgages no later than the Turnover Date; however Community Area which is made subject to this Declaration after the Turnover Date shall be conveyed to the Association free of mortgages no later than ninety (90) days after such Community Area is made subject to this Declaration.

ARTICLE THREE

The Community Area/Association Maintained Public Area

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE REPAIR AND REPLACEMENT BY ASSOCIATION:

(a) Maintenance, repairs and replacements of the Community Area and Association Maintained Public Area shall be furnished by the Association, and shall include, without limitation, the following:

(i) added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping and the Community Area and Association Maintained Public Area;

(ii) maintenance, repair and replacement of improvements including, without limitation, monuments signs and fencing, if any, located on the Community Area and Association Maintained Public Area;

(iii) maintenance of wetlands, if any, located on the Community Area and Association Maintained Public Areas, which maintenance shall follow guidelines, if any, from time to time issued by the governmental authority which has jurisdiction over maintenance of wetlands; and

(iv) maintenance of detention areas and storm water management facilities in compliance with the Maintenance Plan which is attached hereto as Exhibit D.

(b) The Association shall maintain the grass, shrubs, trees and flowers, if any, installed by the Declarant on the Community Area Association Maintained Public Area ("Initial Plantings") in accordance with generally accepted landscape maintenance standards, including mowing, trimming, fertilization, pruning, re-mulching, applications of insect and disease control, as needed, and any other maintenance which will promote the health of the Initial Plantings. If the Association fails to maintain the Initial Plantings in accordance with generally acceptable landscape maintenance standards and Initial Plantings die or decline as a result of this failure, then, the Association shall be responsible for the replacement of the declining or dead Initial Plantings, including, but not limited to replacements required by the Municipality in connection with the Municipality's acceptance of the Initial Plantings. All expenses incurred under this subsection shall be Community Expenses.

(c) The cost of any maintenance, repairs and replacement furnished by the Association pursuant to this Section shall be Community Expenses.

3.03 MAINTENANCE BY OWNER:

(a) Except as otherwise specifically provided for in this Declaration each Owner of a Lot shall be responsible for the maintenance, repair and replacement of the Owner's Lot and the Home thereon.

(b) If, in the judgment of the Board, an Owner fails to maintain those portions of the Owner's Lot which the Owner is responsible for maintaining hereunder in good condition and repair or the appearance of such portions is not of the quality of that of other Lots in the Development or in compliance with rules and regulations adopted by the Board from time to time, then the Board may, in its discretion, take the following action:

(i) advise the Owner of the work which must be done and allow the Owner at least twenty (20) days (or less in the case of an emergency) to cause the work to be done; and

(ii) if the work is not done to the satisfaction of the Board, in its sole judgment, then the Board may seek injunctive relief, levy a fine and/or cause such work to be done and the cost thereof shall be a Charge payable by the Owner to the Association upon demand.

3.04 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Community Area may not be separately metered and billed to the Association. If the cost for any such utility is metered and charged to individual Dwelling Units rather than being separately metered and charged to the Association, then the following shall apply:

(a) If in the opinion of the Board, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Board, the Owner is being charged disproportionately for costs allocable to the Community Area, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the costs which in the reasonable determination of the Board is properly allocable to the Community Area.

Any determinations or allocations made hereunder by the Board shall be final and binding on all parties.

3.05 DAMAGE BY RESIDENT: If, due to the act or omission of a Resident of a Dwelling Unit, or of a household pet or guest or other authorized occupant or invitee of an Owner, damage shall be caused to the Community Area or a Community Expense, then the Owner of the Dwelling Unit shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by insurance carried by the Association.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMUNITY AREA:

(a) No alterations, additions or improvements shall be made to the Community Area without the prior approval of the Board and compliance with applicable Municipality ordinances.

(b) The Association may cause alterations, additions or improvements to be made to the Community Area, and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05.

**ARTICLE FOUR
Insurance/Condemnation**

4.01 COMMUNITY AREA/ASSOCIATION MAINTAINED PUBLIC AREA INSURANCE:

(a) The association shall have the authority to and shall obtain fire and all risk coverage insurance covering the improvements, if any, to the Community Area and, to the extent not covered by the Municipality, the Association Maintained Public Area, and other improvements required to be maintained by the Association (based on current replacement cost for the full insurable replacement value) of such improvements.

(b) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Community Area. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(c) Fidelity bonds indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Board may deem desirable.

(d) The premiums for any insurance obtained under this Section shall be Community Expenses.

4.02 DETACHED HOME INSURANCE/DAMAGE:

(a) Each Owner of a Detached Home shall be responsible for and shall procure fire and all risk coverage insurance covering such Owner's Detached Home and contents for not less than the full insurable replacement value thereof under a policy or policies of insurance with such company or companies, in such form, and for such premiums and periods as he may determine to

be appropriate. Any such policy shall contain waivers of subrogation with respect to the Association and its directors, officers, employees and agents (including the managing agent), occupants of the Detached Home, the Declarant or shall name such parties as additional insured parties, as their interests may appear. Each Owner shall also be responsible for his own insurance on the contents of his Detached Home and furnishings and personal property therein.

(b) No Owner shall cause or permit anything to be done or kept on the Premises which will result in the cancellation of insurance on such Owner's Home, any other Home, or the Community Area.

(c) In the event of damage to or destruction of any Detached Home by fire or other casualty for which the Owner is required to carry insurance hereunder, the Owner thereof shall, within a reasonable time after such damage or destruction, repair or rebuild the Detached Home in substantial and workmanlike manner with materials comparable to those used in the original structure, and in conformity in all respects to the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. When rebuilt, the exterior of the Detached Home shall be substantially similar to, and its architectural design and landscaping shall be in conformity with, the surrounding Detached Homes which are not so damaged or destroyed. The Owner shall not be relieved of his obligation to repair or rebuild his Detached Home under this Subsection (d) by his failure to carry sufficient insurance or the fact that proceeds received by the Owner from his insurer are not sufficient to cover the cost thereof.

(d) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in Subsection (d), to perform the necessary repair or rebuilding, then, the Board may cause such repairs or rebuilding to be performed in the manner as provided in Subsection (d) and the cost thereof shall be a Charge hereunder payable by the Owner to the Association upon demand.

4.03 OWNER RESPONSIBILITY: In addition to the coverage described in Section 4.02 above with respect to his Home, each Owner shall obtain his own personal liability insurance to the extent not covered by the liability insurance for all of the Owners obtained as part of the Community Expenses as above provided, and the Board shall have no obligation whatsoever to obtain any such individual insurance coverage on behalf of the Owners.

4.04 WAIVER OF SUBROGATION: The Association and each Owner hereby waives and releases any and all claims which it or he may have against any Owner, including relatives of an Owner, the Association, its directors and officers, Declarant, the managing agent, if any, and their respective employees and agents, for damage to the Homes or the Community Area or to any personal property located in the Homes or the Community Area caused by fire or other casualty, to the extent that such damage is covered by fire or other forms of casualty insurance, and to the extent this release is allowed by policies for such insurance. To the extent possible, all policies secured by the Board under Sections 4.01(a) and (b) and by each Owner under Section 4.02 shall contain waivers of the insurer's rights to subrogation against any Owner, relatives of an Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents.

4.06 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Community Area, the proceeds awarded in such condemnation shall

be paid to the Association and such proceeds, together with any Capital Reserve being held for such part of the Community Area, shall, in the discretion of the Board, either (i) be applied to pay the Community Expenses, (ii) be distributed to the Owners and their respective Mortgagees, as their interests may appear, in equal shares for each Dwelling Unit, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Community Area under this Declaration. Any acquisition by the Association pursuant to this Section of real estate which shall become Community Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally describes the real estate affected, is executed by the President of the Association and Recorded.

ARTICLE FIVE
The Association

5.01 **IN GENERAL**: Declarant has caused or shall cause the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Community Area and to the maintenance repair and replacement of the Community Area, as provided herein.

5.02 **MEMBERSHIP**: Each Owner shall be a member of the Association. There shall be one membership per Dwelling Unit. Membership shall be appurtenant to and may not be separated from ownership of a Dwelling Unit. Ownership of a Dwelling Unit shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Dwelling Unit within ten (10) days after such change. Notice shall be from the previous Owner and will contain the new Owners information.

5.03 **VOTING MEMBERS**: Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Dwelling Unit. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Dwelling Unit shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Dwelling Unit shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Dwelling as the Voting Member for such Dwelling Unit.

5.04 **BOARD COMMITTEE**: Subject to the rights retained by the Declarant under Section 9.05, (a) the Board shall consist of five (5) members, each of whom shall be an Owner or Voting Member.

5.05 **VOTING RIGHTS**: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members, and each Voting Member shall have one vote for each Dwelling Unit which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 DIRECTOR AND OFFICER LIABILITY: None of the directors or the officers of the Association shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant and each of the directors, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such director may be involved by virtue of such person being or having been such director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on ninety (90) days written notice.

5.08 REPRESENTATION: The Association shall have the power and right to represent the interests of all of the Owners in connection with claims and disputes affecting the Community Area. Without limiting the foregoing, the Association shall have the power after the Turnover Date to settle warranty disputes or other disputes between the Association, the Owners, and the Declarant affecting the construction, use or enjoyment of the Community Area, and any such settlement shall be final and shall bind all of the Owners.

5.09 DISSOLUTION: To the extent permissible under applicable law, in the event of the dissolution of the Association, any Community Area owned by the Association shall be conveyed to the Owners as tenants in common.

5.10 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the Dwelling Units to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.11 ATTENDANCE AT BOARD MEETINGS BY OWNERS: Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

ARTICLE SIX
Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be exclusively for the purposes of administering the affairs of the Association, paying the Community Expenses, and accumulating reserves for any such expenses.

6.02 ASSESSMENTS: Each year on or before December 1, the Board shall adopt and furnish each Owner with a budget for the ensuing capital year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Community Expenses;
- (b) The estimated amount, if any, to maintain adequate reserves for Community Expenses;
- (c) The amount of the "Community Assessment" payable by the Owners of Dwelling Units, which is hereby defined as the amount determined in (e) above, plus the amount determined in (f) above;
- (d) That portion of the Community Assessment which shall be payable by the Owner of each Dwelling Unit each year until the next Community Assessment or revised Community Assessment becomes effective, which yearly amount shall be equal to the Community Assessment, divided by the number of Dwelling Units, so that each Owner shall pay equal Community Assessments for each Dwelling Unit owned.

Anything herein to the contrary notwithstanding the following provisions shall apply with respect to the period prior to the Turnover Date. Any budget prepared prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's then current plan for the Development and (ii) all proposed Dwelling Units have been sold and are occupied. The current plan for the Development shall be kept on file with the Association and may be modified from time to time by Declarant. Each Owner other than the Declarant shall pay as the Owner's monthly share of the Community Assessment an amount equal to the budgeted Community Expenses divided by the number of planned Dwelling Units, divided by 12. Declarant shall not be obligated to pay any Community Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Community Assessments payable by Owners (other than Declarant) less the portions thereof which are to be added to Reserves is less than the Community Expenses actually incurred with

respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant shall deposit with the Association amounts which reasonably approximate Declarant's obligation hereunder as estimated by the Declarant. A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date.

6.03 PAYMENT OF ASSESSMENT: On or before the 1st day of January of each calendar year, until the effective date of the next annual or revised Community Assessment, each Owner of a Dwelling Unit which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Community Assessment which is payable by each Owner of a Dwelling Unit under Section 6.02(d) and (h).

6.04 REVISED ASSESSMENT: If the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02(d) and (h) by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: The Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Community Area, or any other property owned by the Association; or (with approval from the Municipality) to make modifications to the landscaping on the Association Maintained Public Areas; or (ii) to cover an unanticipated deficit under the prior year's budget (but only for periods after the Turnover Date). Any special assessment shall be levied against all Dwelling Units and Unbuilt Dwelling Units using the procedure provided for in Section 6.02. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefore in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain special reserve accounts to be used solely for making capital expenditures in connection with the Community Area and Association Maintained Public Area (the "Capital Reserve") The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Community Area and Association Maintained Public Area which are required to be maintained by the Association hereunder and periodic projections of the cost of anticipated major repairs or replacements to such property and the purchase of the other property to be used by the Association in connection with its duties hereunder. The Capital Reserve may be built up by special assessments or out of the Community Assessment as provided in the budget. Special accounts set up for portions of the Capital Reserve to be used to make capital expenditures with respect to the Community Areas shall be held by the Association as agent and trustee for the Owners of Dwelling Units and Unbuilt Dwelling Units with respect

to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Association by the Owners. The budgets which will be adopted from time to time by the boards appointed by the Declarant prior to the Turnover Date shall include reserve build ups which the Board deems to be appropriate based on information available to the Board. Boards elected by the Owners after the Turnover Date may use different approaches for the buildup of reserves from those used by Boards elected by the Declarant. If the Board chooses not to provide for the buildup of reserves for a particular anticipated expenditure or if the buildup of reserves that the Board does provide for in its budgets does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Board nor any of its past or present members shall be liable to the Association or the Owners for failing to provide for sufficient reserves and (ii) the Board shall have the right and power to either levy a special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Community Assessments or Special Assessments.

6.07 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the first sale of a Dwelling Unit by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to the greater of (i) two (2) months' Community Assessment, as applicable, at the rate which shall be effective with respect to the Dwelling Unit as of the closing or (ii) _____ Hundred Dollars (\$ _____). Said amount shall be held and used by the Association for its working capital needs.

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Dwelling Unit and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN

Collection of Charges and Remedies for Breach or Violation

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Dwelling Unit by acceptance of a deed therefore (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner or the Owner's Dwelling Unit. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Dwelling Unit against which such Charge is made and also shall be the personal obligation of the Owner of the Dwelling Unit at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to

recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Community Area or by abandonment or transfer of his Dwelling Unit.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Dwelling Unit which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Dwelling Unit. Where title to a Dwelling Unit is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Dwelling Unit shall be personally liable for his share of the Charges with respect to which a lien against his Dwelling Unit has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Dwelling Unit, as provided in this Article.

7.05 SELF-HELP BY BOARD: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, then the Board, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Dwelling Unit, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 OTHER REMEDIES OF THE BOARD: In addition to or in conjunction with the remedies set forth above, enforcement of any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Board may levy a fine or the Board may bring an action at law or in equity in the name of the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable (including fines) or to recover damages, and against the Dwelling Unit to enforce any lien created hereunder; and failure by the Association to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Dwelling Unit as provided in Section

7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Dwelling Unit to enforce any lien created hereunder.

7.09 ENFORCEMENT BY MUNICIPALITY: The Municipality is hereby granted the right, but shall not be obligated, to enforce covenants and obligations of the Association or the Owners hereunder. If the Association or one or more Owners fail to comply with any covenants and obligations hereunder, the Municipality shall have the right (but shall not be obligated) to give notice to the Association of the offending Owner or Owners of its, his or their failure to perform its, his or their obligations. If such notice is given and the Association or the offending Owner or Owners do not perform to the satisfaction of the Municipality within thirty (30) days after the giving of such notice, then the Municipality may (but shall not be obligated) to enter upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Municipality. The Association or the offending Owner or Owners shall, upon demand, reimburse the Municipality for the reasonable cost of such work, plus interest at the rate of eighteen percent (18%) per annum from the date incurred and paid by the Municipality through the date the Municipality is reimbursed for such cost, and if the payment is not made within thirty (30) days after the demand, then the amount due, plus reasonable costs of collection, including reasonable attorney's fees, shall become a lien on the property of the offending Owner or Owners or, in the case of the Association, the property of the Association, effective as of the date on which such work was completed; provided, however, that such lien shall be subordinate to the lien of any first mortgage on a Lot Recorded prior to the date on which any such cost becomes a lien against the Lot as provided above.

7.10 BACKUP SPECIAL SERVICE AREA: The Municipality may establish one or more Backup Special Service Areas to give the Municipality the power to levy taxes to pay the cost of maintaining the Community Area and/or Association Maintained Public Area if the Association fails to do so and the Municipality chooses to furnish such services.

ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Community Area, nor shall any "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of the Community Area, except as permitted by the Board or as permitted under Article Nine.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind or other

articles shall be hung out on any portion of the Community Area. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon.

8.03 SATELLITE DISHES/ANTENNAE: No television antenna, radio receiver or transmitter, satellite dish or other similar device shall be attached to or installed on any portion of the exterior of any Detached Home or the Community Area without the approval of the Board; provided, that a satellite dish of less than one meter in diameter may be installed in the rear or side yard of a Home or on the roof of a Home as long as it is not visible from the front of the Home. Without limiting the foregoing, the provisions of this paragraph shall not apply to the Association with respect to the installation of equipment necessary for a master antenna system, cable television system or other similar systems within the Premises.

8.04 RESIDENTIAL USE ONLY: Each Dwelling Unit shall be used only as a residence; provided that no Owner shall be precluded, with respect to his Dwelling Unit, from (i) maintaining a personal professional library, (ii) keeping his personal business records or accounts therein, (iii) handling his personal business or professional calls or correspondence therefrom, or (iv) conducting an "in home business" not prohibited by ordinances of the Municipality.

8.05 PARKING: No commercial vehicle, recreational vehicle, snow mobile, motorcycle or other motorized vehicle and no boat, trailer, hitch or other similar personal property shall at any time be parked or stored on any portion of the Premises other than on a driveway or in a garage. Unless otherwise specifically permitted by the Board or pursuant to rules and regulations adopted by the Board, driveways on the Premises may only be used to park commercial vehicles, recreational vehicles, snow mobiles, boats, trailers, or other similar vehicles for not more than twenty-four (24) hours at a time and to park operable automobiles.

8.06 OBSTRUCTIONS/REFUSE: Except as permitted under Section 9.03, there shall be no obstruction of the Community Area, and nothing shall be stored in the Community Area without the prior written consent of the Board. All rubbish and refuse shall be deposited in such areas and in such receptacles as shall be designated from time to time by the Board or the Municipality.

8.07 PETS: No animal of any kind shall be raised, bred or kept in the Community Area. The Board may from time to time adopt rules and regulations governing (a) the keeping of pets in a Home, which may include prohibiting certain species of pets from being kept in a Home and (b) the use of the Community Area by pets, including, without limitation, rules and regulations which require an Owner to clean up after his pet. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Premises upon three (3) days written notice from the Board to the Owner of the Home containing such pet and the decision of the Board shall be final.

8.08 NO NUISANCE: No noxious, offensive or illegal activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents.

8.09 RULES AND REGULATIONS: The use, occupancy and enjoyment of the

Community Area and Dwelling Units shall at all times be subject to reasonable rules and regulations adopted from time to time by the Board and the ordinances of the Municipality.

ARTICLE NINE
Declarant's Reserved Rights and
Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the By-Laws to the contrary notwithstanding, the provisions set forth in this Article shall govern.

9.02 PROMOTION OF PROJECT: In connection with the promotion, sale or rental of any improvements upon the Development Area: (i) the Declarant shall have the right and power, within its sole discretion, to construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, including, without limitation, the right to construct and maintain model Homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable; and (ii) Declarant, its agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Community Area, at any and all reasonable times without fee or charge. The Declarant shall have the right and power to lease any unit owned by it or the Declarant to any person or entity which it deems appropriate in its sole discretion.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Homes, to the Community Area which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store dirt, construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Community Area to the Municipality or, to any municipality or other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Community Area to any governmental authority, public utility or private utility for the installation and maintenance of electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Home.

9.05 DEVELOPER CONTROL OF ASSOCIATION: The first and all subsequent Boards shall consist solely of three (3) persons from time to time designated by the Declarant, which persons may, but need not, be members under Section 5.02. Declarant's rights under this

Section to designate the members of the Board shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Premises, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) seven (7) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". The Declarant may appoint Owners (other than representatives of the Declarant) from time to time to be and act as non-voting counselors to the Board. From and after the Turnover Date, the Board shall be constituted and elected as provided in the By-Laws. Prior to the Turnover Date all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

9.06 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.07 ASSIGNMENT BY DECLARANT: All rights which are specified in this Declaration to be rights of the Declarant are mortgage able, pledge able, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party that previously exercised or subsequently shall exercise such rights.

9.08 ARCHITECTURAL CONTROLS:

(a) The Declarant shall have the right and power from time to time to adopt reasonable rules and regulations governing the design and exterior finish of all improvements or landscaping from time to time constructed, installed or proposed to be constructed, installed or modified on the Premises. Without limiting the foregoing, no earthmoving, filling, dredging, grading, excavating, installation of landscaping, alteration of landscaping, construction of a building, driveway, walkway, fence, signs or other advertising or promotional devices or any other temporary or permanent improvement to any portion of the Premises or any modification, alteration, renovation, addition or removal of any of the foregoing ("Regulated Work") shall be commenced or maintained with respect to any portion of the Premises without the prior written consent of the Declarant which may be granted or withheld in Declarant's sole and absolute discretion. The Declarant reserves the right and power to promulgate and amend from time to time standards, policies, procedures and guidelines in order to implement the foregoing. If any Regulated Work which requires Declarant approval as provided above is commenced without obtaining the required written consent of the Declarant, then the Declarant may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop work and/or restore the portion of the Premises to its condition prior to the commencement of the work.

(b) Any one or more of the rights and powers of the Declarant under this Section may be delegated to one or more individuals or entities designated from time to time by the Declarant.

(c) Subject as hereinafter provided, from time to time, the Declarant may enter into an agreement ("Transfer Agreement") with the Association whereby the Declarant assigns and transfers to the Association some or all of its rights and powers under Subsection (a). Any Transfer Agreement shall be executed by both the Declarant and the Association and shall be recorded; provided, that the execution of the Transfer Agreement by the Association shall be approved in advance by action of the Voting Members at an annual meeting or special meeting of the Voting Members. A Transfer Agreement may include such terms as are agreed upon between the Declarant and the Association. From and after the recording of a Transfer Agreement, the rights and powers of the Declarant under Subsection (a) which is transferred to the Association pursuant to the Transfer Agreement, shall be administered as provided in the Transfer Agreement. Any rights and powers of the Declarant under Subsection (a) which is not transferred to the Association pursuant to a Transfer Agreement shall expire and terminate at such time as the Declarant no longer holds or controls title to any portion of the Development Area.

ARTICLE TEN Amendment

10.01 SPECIAL AMENDMENTS: Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct errors, ambiguities or inconsistencies in the Declaration or any Exhibit, or (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power to make Special Amendments hereunder shall terminate at such time as Declarant no longer holds or controls title to a portion of the Development Area.

10.02 AMENDMENT: Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument executed by Owners of at least Seventy-Five Percent (75%) of the Dwelling Units; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all Mortgagees, (ii) Article Nine, Article Twelve or any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant and (iii) any provisions relating to the rights of the Municipality may be amended only with the written consent of the Municipality. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such

removal, an Owner of a Dwelling Unit shall no longer have the legal access to a public way from his Dwelling Unit. No amendment shall become effective until properly Recorded.

ARTICLE ELEVEN
Mortgagees Rights

11.01 NOTICE TO MORTGAGEES: Upon the specific, written request of Mortgagee or the insurer or guarantor of a Mortgagee's mortgage, such party shall receive some or all of the following:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Dwelling Unit covered by the Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of any proposed action that requires the consent of a specified percentage of Eligible Mortgagees;

(e) Notice of any substantial damage to any part of the Community Area or the Dwelling Unit subject to the Mortgagee's mortgage;

(f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Community Area or the Dwelling Unit subject to the Mortgagee's mortgage.

(g) Notice of any default by the Owner of the Dwelling Unit which is subject to the Mortgagee's mortgage under this Declaration, the By-Laws or the rules and regulations of the Association which is not cured within thirty (30) days of the date of the default;

(h) The right to examine the books and records of the Association at any reasonable times;

(i) In the case of a Mortgagee, the right to be listed on the records of the Association as an "Eligible Mortgagee" for purpose of Section 11.02 below; and

(j) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 CONSENT OF MORTGAGEES:

(a) In addition to any requirements or prerequisites provided for elsewhere in this Declaration, the consent of Mortgagees holding, in the aggregate, the first mortgages on at least two-thirds (2/3) of the Dwelling Units (by number) which are subject to first mortgages held by Mortgagees which specifically request to be treated as "Eligible Mortgagees" under Section 11.01(i) above will be required for the Association to do or permit to be done any of the following:

(1) Adoption of an amendment to this Declaration which (i) changes Article Six or otherwise changes the method of determining the Community Assessments or other Charges which may be levied against an Owner; (ii) changes Section 7.04 or Article Ten, (iii) changes this Article Eleven, Article Twelve or any other provision of this Declaration or by By-Laws which specifically grants rights to Mortgagees, (iv) materially changes insurance and fidelity bond requirements, (v) changes voting rights, or (vi) imposes a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Dwelling Unit; or

(2) The withdrawal of the Premises from the provisions of this Declaration.

However, in no event shall the consent of Eligible Mortgagees be required with respect to any action taken by Declarant pursuant to Article Twelve.

(b) Whenever required, the consent of an Eligible Mortgagee shall be deemed granted unless the party seeking the consent is advised to the contrary, in writing, by the Eligible Mortgagee within thirty (30) days after making the request for consent.

11.03 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Community Area or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Community Area, any such distribution shall be made to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the Mortgagee of a Dwelling Unit with respect to any such distribution to or with respect to such Dwelling Unit; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Community Area or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE Annexing Additional Property

12.01 IN GENERAL: Declarant reserves the right at any time and from time to time prior to seven (7) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as hereinafter provided. Any portion of the Development Area which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Community Area shall be referred to as "Added Community Area"; and any Dwelling Units contained in the Added Premises shall be referred to as "Added Dwelling Units". After the expiration of said seven (7) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Development Area to the provisions of this Declaration, provided that the consent the Owners (by number) of two-thirds (2/3) of all Dwelling Units then subject to this Declaration is first obtained.

12.02 POWER TO AMEND: Declarant hereby retains the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 12.01, which amends or supplements Exhibit A and the Plat of Subdivision. Exhibit A may only be amended or supplemented pursuant to this Article to add portions of the Development Area to Exhibit A and shall not be amended to reduce or remove any real estate which is described in Exhibit A immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

12.03 EFFECT OF SUPPLEMENTAL DECLARATION: Upon the Recording of a

Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Community Area or Added Dwelling Units to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Dwelling Unit shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Dwelling Units immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises (including the Added Community Area or the Added Dwelling Units, if any) made subject to this Declaration by any such Supplemental Declaration and the Owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Dwelling Unit or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Dwelling Unit which is subject to assessment hereunder shall be responsible for the payment of the Community Assessment pursuant to Section 6.02, as applicable, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Dwelling Unit became subject to assessment hereunder.

ARTICLE THIRTEEN

Miscellaneous

13.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent when (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing or (ii) when delivered personally to his Dwelling Unit.

13.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

13.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

13.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the President of the United States at the time this Declaration is Recorded.

13.05 TITLE HOLDING LAND TRUST: In the event title to any Dwelling Unit is held by a title holding trust, under the terms of which all powers of management, operation and control of the Dwelling Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Dwelling Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Dwelling Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Dwelling Unit.

Exhibit A

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 (EXCEPT THE SOUTH 130 FEET OF THE EAST 335.1 FEET THEREOF) OF SECTION 2; ALSO THAT PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 2, DESCRIBED AS FOLLOWS: COMMENCING ON THE SOUTH LINE OF SAID 1/4 1/4 SECTION IN THE CENTER OF THE HIGHWAY; THENCE WEST ON 1/4 1/4 SECTION LINE, 40 RODS; THENCE NORTH AT RIGHT ANGLES TO SAID LINE 20 RODS; THENCE EAST PARALLEL TO SAID 1/4 1/4 SECTION LINE, 40 RODS AND THENCE SOUTH IN CENTER OF HIGHWAY 20 RODS TO THE POINT OF BEGINNING, ALL IN TOWNSHIP 44 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.